



THE CITY OF NEW YORK
LAW DEPARTMENT

HON. SYLVIA O. HINDS-RADIX
Corporation Counsel

100 CHURCH STREET
NEW YORK, NY 10007

Application Granted


Valerie Figueredo, U.S.M.J.

DATED: 12-14-2022

The initial case management conference scheduled Wednesday, December 21, 2022 is adjourned sine die. Plaintiff is directed to file a notice of change of address on the docket in this action. Plaintiff is hereby warned that that failure to update his contact information in a timely fashion, or to otherwise appear and participate in this case, may result in this action being dismissed for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). SO ORDERED.

BY ECF

Hon. Valerie Figueredo
United States Magistrate Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *Burns v. City of New York, et al.*
No. 22-CV-2371 (AT) (VF)

Dear Judge Figueredo:

I am an Assistant Corporation Counsel in the Office of Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, attorney for the City of New York in the above-referenced matter, in which Plaintiff alleges he did not receive a second dosage of the COVID-19 vaccine while in the custody of the New York City Department of Correction ("DOC"). I write pursuant to the Court's November 11, 2022 Order (ECF No. 32) to inform the Court that Plaintiff has not communicated with the City since his discharge from DOC custody, and to request that the Court adjourn the December 21, 2022 initial case management conference *sine die*.

By letter filed on November 10, 2022, I informed the Court that Plaintiff was discharged from DOC custody on October 25, 2022. *See* ECF No. 31. In my letter, I also requested that the Court adjourn the initial case management conference set for November 15, 2022 *sine die*, as I had been unable to confer with Plaintiff regarding a proposed case management plan. *Id.* The same day that I filed my letter, the Court issued an Order that adjourned the initial case management conference to December 21, 2022, and directed the City to inform the Court by December 14, 2022 whether it had had any further contact with Plaintiff. *See* ECF No. 32.

Plaintiff has not communicated with the City since his discharge from DOC custody on October 25, 2022. In fact, Plaintiff has neither communicated with the City, nor with this Court, in any regard since he initiated this action on March 23, 2022 except for a letter filed on September 7, 2022. *See* ECF No. 16. Further, the City's motion to dismiss (ECF Nos. 22-25), served October 20, 2022, and its October 27, 2022 and November 10, 2022 letter motions (ECF

Nos. 27, 31) have all been returned to the City as undeliverable without a forwarding address. This matter's docket also indicates that the Court's October 21, 2022 initial case management conference Order (ECF No. 26), and its October 31, 2022 Order (ECF No. 29), were returned to the Court with the marking "return to sender, unable to forward." *See* November 15 and 16, 2022 minute entries.

Accordingly, the City respectfully requests that the Court adjourn the December 21, 2022 initial case management conference *sine die*, and direct Plaintiff to promptly file a notice of change of address. Additionally, the City respectfully requests that the Court warn Plaintiff that the failure to do so may result in this matter being dismissed for failure to prosecute.

Thank you for your consideration of this matter.

Respectfully submitted,

/s/ Aaron Wiener

Aaron Wiener, Esq.
Assistant Corporation Counsel

cc: By First Class Mail
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